HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5835 of 2007

Dated:21.03.2007

Between:

Ura Venkeswara Swamy and others.

…Petitioners

and

Zilla Parishad, Krishna District.

…Respondent.

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5835 of 2007

ORDER:

The petitioners, who are 22 in number, are aggrieved by the auction of shops in Zilla Parishad Shopping Complex at Gudivada Town by the respondents. They seek a declaration that such action is illegal and arbitrary.

The case of the petitioners in brief is that they were inducted as lessees in Shop Nos.11, 1 to 10, 12 to 15, 17 to 21 and 23 to 27 sometime 30 years ago. All the petitioners are engaged in small businesses/avocations like, tailor, watch repair, cool drink, stationary etc. It is also alleged that once in every five years, the respondent has been renewing the lease on condition of the lessees paying three months advance. In 1987, when the lease was not extended, some of lessees filed a writ petition before this Court. The same, being W.P.No.3507 of 1987, was disposed of by this Court directing the respondent to renew the lease on condition of enhancement by 33 1/3 percent. In 1997, again writ petitions, being W.P.Nos.11015 and 14064 of 1997, were filed and this Court disposed of the writ petitions directing to reconsider the grant/renewal of lease for a period of five years keeping in view the rules relating to Acquisition and Transfer of Property by Gram Panchayats, Mandal Parishads and Zilla Parishads Rules, 2001 (for short 'the Rules'), as they existed prior to coming into force of the Andhra Pradesh Panchayat Raj Act, 1994 (for short 'the Act'). It is stated that pursuant thereto, their leases were extended. All of a sudden, the respondent addressed a letter to all his subordinates requesting to inform the elected representative about auction to be

conducted for 26 shops except shop No.16. A sealed-cum-open auction notice, bearing R.C.No.1033/2007/M.2, dated 15.03.2007 was also issued. Aggrieved by this, the present Writ Petition is filed.

Learned Counsel for the petitioners placed strong reliance on Rule 6(v) of the Rules promulgated by the Government of Andhra Pradesh in exercise of powers conferred under sub-section (2) of Section 268 of the Act and published vide G.O.Ms.No.215, Panchayat Raj and Rural Development (Pts.III), dated 25.06.2001. The said Rule while laying down that lease under Rule 6(iv) of the Rules shall be granted ordinarily for a period of 12 months does not preclude the competent authority to grant renewal. The application made by the petitioners requesting renewal of the lease is still pending and therefore, it would be appropriate if the application is considered and disposed of within a week from the date of receipt of a copy of this order. It shall also be open to the petitioners to participate in the auction scheduled on 23.03.2007 without prejudice to the right of the petitioners to seek renewal as requested in their representation. Pending consideration of the application of the petitioners for renewal, the auction scheduled tomorrow may not be confirmed by the respondent.

The Writ Petition is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

22.03.2007

Note: Sri M.Prabhakar Rao, learned Standing Counsel for Gram Panchayats, is directed to inform about this order to the Chief Executive Officer, Zilla Parishad, Chintalapudi, Krishna at Machilipatnam.

(B/o)

GJ